

ASSEMBLY, No. 2429

STATE OF NEW JERSEY

INTRODUCED OCTOBER 21, 1996

By Assemblymen DeCROCE, BUCCO and Assemblywoman
Murphy

1 AN ACT concerning employees at certain State facilities and amending
2 P.L.1988, c.45.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read as
8 follows:

9 2. a. A facility shall not employ any individual unless the
10 Commissioner of the Department of Human Services has first
11 determined, consistent with the requirements and standards of this act,
12 that no criminal history record information exists on file in the Federal
13 Bureau of Investigation, Identification Division, or in the State Bureau
14 of Identification in the Division of State Police, which would disqualify
15 that individual from being employed at the facility. A criminal history
16 record background check shall be conducted at least once every two
17 years for an individual employed at the facility. An individual shall be
18 disqualified from employment under this act if that individual's criminal
19 history record check reveals a record of conviction of any of the
20 following crimes and offenses:

21 (1) In New Jersey, any crime or disorderly persons offense:
22 (a) Involving danger to the person, meaning those crimes and
23 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
24 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or
25 N.J.S.2C:15-1 et seq.; or

26 (b) Against the family, children or incompetents, meaning those
27 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
28 seq.; or

29 (2) In any other state or jurisdiction, of conduct which, if
30 committed in New Jersey, would constitute any of the crimes or
31 disorderly persons offenses described in paragraph (1) of this
32 subsection.

33 b. Notwithstanding the provisions of subsection a. of this section,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 no individual shall be disqualified from employment under this act on
2 the basis of any conviction disclosed by a criminal history record check
3 performed pursuant to this act if the individual has affirmatively
4 demonstrated to the Commissioner of Human Services clear and
5 convincing evidence of his rehabilitation. In determining whether an
6 individual has affirmatively demonstrated rehabilitation, the following
7 factors shall be considered:

8 (1) The nature and responsibility of the position which the
9 convicted individual would hold;

10 (2) The nature and seriousness of the offense;

11 (3) The circumstances under which the offense occurred;

12 (4) The date of the offense;

13 (5) The age of the individual when the offense was committed;

14 (6) Whether the offense was an isolated or repeated incident;

15 (7) Any social conditions which may have contributed to the
16 offense; and

17 (8) Any evidence of rehabilitation, including good conduct in
18 prison or in the community, counseling or psychiatric treatment
19 received, acquisition of additional academic or vocational schooling,
20 successful participation in correctional work-release programs, or the
21 recommendation of persons who have had the individual under their
22 supervision.

23 c. If a prospective employee of a facility refuses to consent to, or
24 cooperate in, the securing of a criminal history record background
25 check, the commissioner shall direct the principal administrator not to
26 consider the person for employment at the facility. The prospective
27 employee shall, however, retain any available right of review by the
28 Merit System Board in the Department of Personnel.

29 d. If a current employee of a facility refuses to consent to, or
30 cooperate in, the securing of a criminal history record background
31 check, the commissioner shall direct the principal administrator to
32 immediately remove the person from his position at the facility and to
33 terminate the person's employment at the facility. The employee shall,
34 however, retain any available right of review by the Merit System
35 Board in the Department of Personnel.

36 e. Notwithstanding the provisions of subsection a. of this section
37 to the contrary, a facility may provisionally employ an individual for
38 a period not to exceed six months if that individual's State Bureau of
39 Identification criminal history record background check does not
40 contain any information that would disqualify the individual from
41 employment at the facility and if the individual submits to the
42 commissioner a sworn statement attesting that the individual has not
43 been convicted of any crime or disorderly persons offense as described
44 in this act, pending a determination that no criminal history record
45 background information which would disqualify the individual exists
46 on file in the Federal Bureau of Investigation, Identification Division.

1 An individual who is provisionally employed pursuant to this
2 subsection shall perform his duties at the facility under the direct
3 supervision of a superior who acts in a supervisory capacity over that
4 individual until the determination concerning the federal information
5 is complete.

6 (cf: P.L1993, c.1, s.1)

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8 2. This act shall take effect immediately.

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STATEMENT

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13 This bill requires employees at State facilities for the mentally ill
14 and developmentally disabled to undergo criminal history record
15 background checks at least every two years. Currently, employees at
16 these facilities are only required to undergo the background checks
17 prior to employment.

18 This bill is one of several legislative initiatives recommended in the
19 final report of the Senate Task Force on Greystone Park Psychiatric
20 Hospital issued in June, 1996.

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25 Requires criminal history background checks to be conducted at least
26 every two years for employees at State facilities for mentally ill and
27 developmentally disabled persons.